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ABSTRACT

This document is intended to present background information on the basic consumer protection issues in postsecondary education. Topics discussed are: (1) recruitment practices of postsecondary schools; (2) the role of a state agency in consumer protection; (3) consumer rights, responsibilities and redress of consumer protection; (4) advertising guidelines for educational institutions; (5) consumer protection in postsecondary occupational education; (6) accreditation and consumer protection; (7) the legitimacy of consumer protection as a concern in traditional higher education; (8) consumer advocacy and student consumer protection in postsecondary education; (9) deceptive and unfair advertising practices on the part of vocational schools; and (10) the actual consumer in the educational marketplace. (Author/KE)

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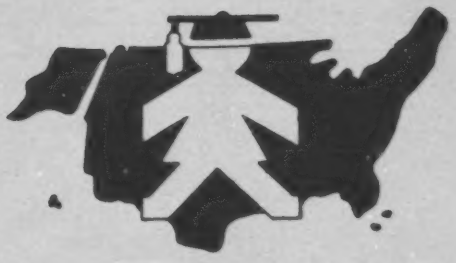
CONSUMER PROTECTION IN POSTSECONDARY EDUCATION



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ISSUE PAPERS RELATING TO CONSUMER PROTECTION IN POSTSECONDARY EDUCATION

Circulated for the Second Conference on Consumer Protection in Postsecondary Education

Knoxville, Tennessee • November 14-15, 1974

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BACKGROUND

A series of preconference papers were circulated for the first national conference on consumer protection in postsecondary education held March 17-19, 1974, in Denver, Colo. Included in this series were issue papers pertaining to consumer protection in postsecondary education.

For the second conference Nov. 14-15, 1974, in Knoxville, Tenn., the conference planning group recommended that these issue papers be reprinted and distributed prior to the Knoxville conference.

The second conference will focus on the links among federal, state and local levels of government for improving consumer protection. During the conference, action-oriented strategies for defining and strengthening these links will be developed.

Therefore, these issue papers are intended to familiarize conference participants with additional background material on the basic consumer protection issues in postsecondary education.

RECRUITMENT PRACTICES OF POSTSECONDARY SCHOOLS

Frank N. Albanese, Executive Secretary
Ohio Board of School and College Registration

Recruitment as used in this article refers to the means by which private, proprietary and tax-supported schools seek to obtain a student enrollment to maintain or increase a student body to utilize its facilities to the maximum.

Institutions as used in this statement include schools, colleges and universities, whether private, proprietary or tax-supported and those incorporated as schools for profit or nonprofit.

Until very recently little attention or concern on the part of state institutional approval agencies and accrediting associations was given to the problems arising out of institutional practices. "Laissez faire" was largely the prevailing attitude from the decade of the '30s when all postsecondary institutions were struggling for survival, until the decade of the '70s when greatly expanded facilities and the organization of new institutions for which Sputnik and the population explosion were responsible created a highly competitive situation for the enrollment of high school graduates, drop-outs and adults.

No longer can the "laissez faire" attitude prevail, with the result that means are being sought to curb widespread unethical and fraudulent activities either on a voluntary agreement basis or by legal regulatory measures enforced by state or federal agencies.

Attempts of institutions to form voluntary policing among members have by and large resulted in failure. It is for these reasons that attention is being focused on the inclusion in model legislation provision for

coping with a problem in a manner to adequately protect reputable institutions from the unfair competition of those engaging in fraudulent or unethical recruitment, as well as prospective students.

Such proposed legislation seems to be indicated when one considers that only approximately two-thirds of the states have legislation or agencies regulating non-tax-supported institutions, and in some that do have such regulatory agencies the laws are inadequate or poorly administered and enforced.

Since accreditation is a purely voluntary procedure, many private and tax-supported institutions have for one reason or another not sought accreditation and hence are not bound by their standards.

In attempting to correct or prevent current unethical or fraudulent recruitment practices, attention need be given to the following:

1. The employment of persons to contact prospective students, at home or in secondary schools. These persons are frequently known as agents, coordinators of school and college relations, counselors, advisors, registrars, etc. Unless such persons are highly professional and ethical in their activities, they place the school they represent in jeopardy and undermine public confidence of schools in general.

Violations of acceptable standards of performance include:

a. Gross misrepresentation of the school program.

b. Assuring guaranteed employment following course completion.

c. Exerting undue pressure or persuasion without due regard for the student's personal interest or aptitude.

d. Falsely over-emphasizing test results for initial admission or advanced-standing credit.

While recruitment practices such as the above have been reduced by state licensing agency standards, federal guidelines, etc., it appears that stronger legal controls and penalties are to be desired.

e. Obtaining lists of secondary school seniors by devious means contrary to secondary school policies.

Even though uniform legislation designed to correct abuses such as those enumerated above may be helpful, full compliance with generally accepted ethical standards of recruitment rests with the administrative officials of each individual school.

2. Misleading institutional advertising.

Institutions of all types use a variety of media in attracting attention to the school's program, facilities, faculty qualifications, placement records, etc.

Among these we would enumerate the following:

a. The school catalog:

Since the catalog is the "showcase of the institution," copies are mailed to secondary schools and individuals in great numbers. Its value for recruitment purposes depends upon attractiveness, full, complete and honest statements presented therein.

b. Newspaper advertising:

Most schools make widespread use of this means of announcing programs, opening dates, etc., in those communities from which their student body is enrolled. Such ads are considered effective. In numerous instances, however, some have been found to be misleading, exaggerated and in poor taste. In others, undocumented testimonials from former students have been used.

c. Advertising in yellow pages of telephone directories:

Many schools find this a very effective form of advertising. Comments relative to newspaper advertising are also applicable to this means of advertising.

d. Advertising in national magazines:

Such advertising is used primarily by home study schools, the worst offenders in this type of advertising are the so-called "diploma mills." Many unsuspecting individuals have been victimized by purchasing worthless courses or simply buying degrees with no pretense of study or examination.

Many reputable and accredited home study schools utilize this means of advertising and find it to be very effective. The interested person is invited to mail an inserted self-addressed card or clipping to be mailed for further information before registering or paying fees.

e. Radio and TV advertising:

To a limited degree these media are utilized by schools to cover the area from which most students come. Very little if any national advertising is utilized since costs are usually prohibitive.

Any agency, legal or extra-legal (voluntary) attempting to draft laws or guidelines designed to prevent fraudulent or unethical practices such as those enumerated above must keep in mind that we are dealing with the moral and ethical values of individuals. Just as morals vary in communities and regions and cannot be legislated, so too with its inseparable counterpart--ethics.

It, therefore, appears that any approach to the problem should be directed at prevention rather than cure.

School administrators and their representatives should be subjected to a thorough character investigation prior to approval or licensing.

THE ROLE OF A STATE AGENCY IN CONSUMER PROTECTION IN EDUCATION

Philip F. Ashler, Executive Vice Chancellor
State University System of Florida

Wherever the achievement of a goal involves time, effort and personal sacrifice, someone is always ready to step in to provide a shortcut to that goal or, as is more frequently the case, something similar to that goal, for a price. And so it is in the field of education. Conventional academic institutions require three or four years' study to earn the baccalaureate degree, one or two years for the master's and several more for the doctorate. But in our society of convenience and accommodation certain less conventional academic entrepreneurs offer to satisfy the degree aspirant by a simple conversion of academic time and tears to a sum of dollars for a degree.

Those who have earned degrees in the traditional manner find it difficult to understand why anyone would expect to receive a degree through a less conventional procedure. Like the fraternity initiate who felt that hazing was an unnecessary and sometimes a painful prerequisite to the brotherhood, once accepted as a brother, he is the first to wield the paddle on the new pledge!

Nonetheless there are those who have been denied opportunity of collegiate and graduate work, some because of economic circumstances, family responsibilities, military service and still others who drop out for just lack of motivation. Each of these, earlier or later in life, is made aware of the importance of not so much the education they missed but the credential, the diploma, the degree--that mute piece of evidence that attests to the attainment of some level of higher education. They soon recognize that

the degree does not guarantee proficiency or knowledge, but it certainly is a "letter of introduction," a credential behind which few employers or evaluators seek verification. So long as the granting institution does business under a reasonable name and produces a "genuine, parchment-like document... carefully engraved by a master craftsman," there is seldom further inquiry.

Thus degrees for sale and those who would purvey them will continue to flourish so long as the market exists, but then only so long as society will permit the operation to continue.

Consequently there are many "publics," groups of consumers who deserve protection, but there is also a sizeable group that perhaps deserves no protection at all, because it is fully aware of the academic value of its purchase and seeks the degree only to perpetrate another fraud or to deceive.

But let us deal first with the innocent consumer who has no way of evaluating his degree, or at least is not knowledgeable in the procedure to "check out" an institution. Here are the housewives who were obliged to drop formal education while rearing children and now, the children grown, seek an opportunity to make up for lost school time either for personal satisfaction or to satisfy an employment opportunity prerequisite. An ad in the women's magazine, promising a degree in short order at a price, is very appealing. The person in the armed forces who finds that the lack of an advanced degree stands between him and promotion or a desirable assignment is a surefire respondent to a come-on which promises a degree in electrical engineering, by correspondence and in just a few weeks. Then there is the inmate in a federal penitentiary, literally with time on his hands, who learns of the quick route to a degree in psychotherapy ($1,500 plus

one eight-cent stamp!) and responds in the hope that after rehabilitation he may take a profitable place in society. Sadder yet is the case of a patient committed to a New York State Hospital for the insane, who repeatedly insists that he be registered at a recognized diploma mill no longer permitted to do business so that he might take courses leading to a degree in space technology.

There is one group of consumers that cannot be protected even from themselves--those who are fully aware of the questionable value of the degree they are buying but nonetheless want it desperately for purposes of vanity. This group tried to earn a degree through conventional methods but failed, or perhaps could not gain admission to a recognized institution. To them money is a small price to pay for that which they cannot earn through the establishment.

There is yet another group that must be protected not only because it has no way of knowing the proper way to earn a degree in the United States and quite innocently signs up for something less than a meaningful academic experience, but more important, because of the adverse effect that personal experience may have on the good name of the really fine academic institutions in our country that award degrees the "hard way." This group consists of the foreign students who sincerely seek knowledge through study or a smaller group that desires an American degree for self-aggrandizement or to impress the home folks.

While the foregoing are direct consumers of the questionable academic processes, there are also those who suffer a secondary effect as a result of diploma mill operations. There is no way to determine the damage that may result to a bona fide academic institution because of the operations

of a questionable or even illegal enterprise. There appears to be a problem of guilt by association--each is an American institution. However, such institutional damage, while significant, is certainly not irreparable. On the other hand, let us consider those individuals who might be taught or even treated by the recipient of a bogus degree. Such degree sold to an educator may bring him a pay raise while depriving his student of a meaningful academic experience. More important is the fate of the client or the patient of one who holds a bogus degree in psychotherapy or some other healing art--more than a charge of illegal practice, the consequence could well be suicide. The need for consumer protection in education is obvious.

At the present time, the situation may be characterized by efforts of varied intensity in a fragmented cluster of public and private agencies. Each operates unto itself with varying degrees of effectiveness. The federal role in consumerism in education has been minimal. Four agencies serve to illustrate the matter. The Federal Trade Commission has no specific statutory authority to regulate educational corporations, and the U.S. Office of Education has limited its activity in this area to research and information. In the past, the U.S. Postal Service has acted in cases of mail fraud, but only on the complaint of those persons claiming injury. Perhaps the greatest effectiveness is exhibited by state veterans approval agencies. Although programs, and not institutions, are approved, the educational parameters set on a statewide basis constitute a reasonably sound basis for regulating educational operations. However, a synthesis of the present situation reveals that the federal input currently lacks specific statutory authority in most cases to operate effectively. Furthermore, the public exhibits a great fear of national controls in education

that may replace existing state laws. It has been reported that many educators representing both public and private sectors speak softly because they also fear extreme controls at the federal level that might result in limitation of state locus as well as their own institutional autonomy.

The regional accrediting agencies have engaged primarily in voluntary self-study and peer appraisal as a method whereby institutions can certify quality to the public. It seems to suggest the effectiveness of accrediting agencies lies in this area and not in consumerism. At the state level, a variety of licensing and regulatory boards presently operate with varying degrees of success. Regulatory boards which license and monitor the fields of medicine, dentistry, nursing, cosmetology, barbering and real estate are evident in most states, but their major concern in some cases appears to be determining the qualifications of those seeking to practice rather than direct concern with protecting the consumer. In addition, many states are taking a more active role in licensing and regulating nonpublic colleges, universities and schools. It is important to note that there continues to be a great deal of sensitivity at the state level in the area of consumer protection. Finally, the local level provides agencies such as Better Business Bureaus, newspaper, television and radio action lines and Chambers of Commerce to aid consumers.

Thus, currently there is a multiplicity of agencies giving part-time effort in the area of consumerism in education. These agencies operate at each level of government and with varying degrees of authority. But, there is no simple federal or local agency charged with the specific responsibility of consumerism in education. It is only at the state level where such agencies have existed and where new agencies are being created.

The second thrust of the present situation relates to a lack of communication among such agencies, specifically, where agencies presently have no vehicle available to communicate or share information. The evidence suggests that this lack of communication exists not only among the states, but also manifests itself within the various states. In sum, those persons and agencies dealing on a day-to-day basis with consumerism in education lack a suitable forum for the exchange of data, and state and local officials do not have appropriate means to disseminate much needed information.

Since it is presumed and generally accepted that education with all its ramifications is a responsibility of the individual state, then responsibility for the educational processes, its regulations and avenues of redress for wronged consumers must also rest with the state.

States have responded to this responsibility in several ways. New York maintains rigid control over the establishment of private institutions primarily through its financial requirement of $500,000 capitalization. Others exercise little control other than the registration of the institutional title and the filing of Articles of Incorporation. Still others, like Florida, have chosen a course of licensure to assure consumers protection from fraud by adopting pragmatic rules and criteria that will permit the establishment of new institutions that are sincerely seeking to provide a truly innovational educational experience through nontraditional methods, yet eradicate the diploma mill.

Many traditional educators have long shackled their institutions to the conventional restraints of time in college rather than performance and skills developed regardless of time. While the Carnegie Commission has

driven many public and private institutions to experiment with time-shortened degrees and innovative measures, others are still far behind the academic entrepreneur who is willing to strike out boldly in pursuit of new effective academic procedures and practices, while also striving to maintain that elusive property we refer to as quality. Next comes the greatest challenge that faces any regulatory or licensing group seeking to protect the consumer. We must recognize that the consumer cannot be protected unless he wants to be protected. We cannot level a charge of fraud if the consumer is in fact "buying" what the vendor is "selling." If a degree is available for a sum of money, without course work, instructors or examination, and this is what the consumer knows he is buying, then he cannot claim fraud. These are the consumers referred to earlier as those who are willing to buy that "parchment-like" document to satisfy their own vanity, impress their colleagues and perhaps even deceive unsuspecting prospective employers. Nonetheless, it is the responsibility of the state to protect the unwary, the uninformed and those who can least afford to be defrauded. This protection must be provided as consumer protection against fraud and not as academic accreditation to insure a "quality education."

In the State of Florida, which in the last two years has emerged as a leader in this field, the legislature recognized its responsibility by enacting a statute that provided for a State Board of Independent Colleges and Universities to develop regulations for the operation of certain private institutions and to grant licensure for their doing business.

The board includes five members representing private education, two representing public education and two lay persons who are not dependent on education for their income. It has adopted minimum standards, rules

and regulations. Until the moment of the adoption of these regulations, institutions in the field had no way of knowing whether or not they were in compliance with the new rules. Those institutions already accredited, while not fully in compliance with all the minimum standards, were, however, protected by being exempted from the licensing provisions because they had already been accredited. Many new institutions or young institutions were caught in a situation in which they had been operating without any regulations, control or guidelines and suddenly were put to the test of meeting the minimum standards that were developed by the new board.

The institutions that were in the business of selling diplomas did not even bother to seek licensing. The institutions that were accredited by one of the several agencies recognized by the U.S. Department of Health, Education and Welfare were exempt from the licensing. The older institutions and the ones that did not fall into the gray area were licensed without delay. Then a group of institutions came to the attention of the board that had been in existence for a short time but which, in the opinion of some of the members of the board, did not fully meet the minimum standards. These were the institutions that can best be described as riding that very fine thin line between a truly innovational academic experience and one of the seriously questionable academic standing. These were institutions which one might describe as making a good-faith effort to meet the new requirements, but had not yet quite made the grade. Yet in many cases there was sufficient reason to believe that given reasonable time, these marginal institutions might qualify for licensure.

To insure that such innovative institutions were given an opportunity to demonstrate their worth, the board adopted a regulation that provided for

temporary licensing, provisional licensing and original licensing. The idea behind this move was to give the board a method of temporarily licensing an institution and giving it reasonable opportunity to correct any alleged deficiencies.

The point I want to make clear here is that the duty of the board is not to rate any applicant institution as to its standing in relation to some other institution or group of institutions. The law does not permit the board to determine what kind of books should be in the library nor even whether there should be a library. The statute does not require the board to examine each faculty member to determine his individual qualifications. The law does not require that the dissertations of the students be rated or compared to the dissertations of candidates at other institutions. If the board should venture into that deep water then every institution in the state is in potential trouble. The statute requires that the board set minimum standards. It is a consumer protection statute, passed with the legislative intent that it be used to eliminate diploma mills, not to be a substitute for the area accrediting agencies.

While a state licensing and regulatory board should not be considered as a panacea for the problems identified with consumers in education, it can beneficially serve as the single agency charged with this responsibility. It is in the best position to work effectively with other states' licensing boards, teacher certification bureaus and the veterans administration approval programs. An agency, such as Florida's, is also in a unique position to respond to inquiries relating to consumer protection matters in education and to issue opinions regarding the practices of institutions.

While such an agency may resolve diploma mill problems within its own boundaries, its efforts will undoubtedly result in driving questionable academic institutions to other states where statutes either permit such operation or are silent on the subject. As a case in point the Florida Board of Independent Colleges and Universities recently considered the application for licensure of a graduate-level educational operation. The material presented was not sufficient to make possible a proper decision, but research through the Division of Corporations revealed sketchy, disjointed bits of information of operation over a 20-year period in three separate states under at least five different names. Since the applicant did not satisfy minimum requirements, the board denied the application for licensure. However, an inquiry from an out-of-state citizen revealed that the same institution filed for Articles of Incorporation in the State of Alabama. The material gathered by the board in reaching a decision in Florida was offered to the attorney general of Alabama. He found it to be sufficient evidence to institute legal proceedings against the corporation which culminated in a cease-and-desist order and closing of the institution almost before it opened.

To insure that instances such as that cited above do not recur and in an effort to support state nonpublic college licensing and regulatory boards, a new system of interstate educational consumer protection communications appears necessary. There is an urgent need to share mutually beneficial information.

Perhaps the Education Commission of the States, using this conference as a springboard, might spearhead the process of communication by serving as a repository and clearinghouse for consumer protection information among the states.

An annual conference such as this, under joint sponsorship, would serve to enhance and clarify the process of communication. I am suggesting that the Education Commission of the States steer such a project, but not necessarily assume total responsibility. The commission might also utilize its excellent publication Higher Education in the States to share information on an ongoing basis with the member states.

With a single state consumer protection agency charged with the principal responsibility of licensing and regulating nonpublic postsecondary educational institutions, with a new emphasis placed on interstate communication through a central clearinghouse, with annual conferences and with monthly dissemination of information, perhaps we can assist state governments in the discharge of one of their basic duties to citizens--protection from fly-by-night, fraudulent organizations that purport to provide short-order credentials.

The Three R's of Postsecondary Consumer Protection: CONSUMER RIGHTS, RESPONSIBILITIES AND REDRESS

Brad Baker
Graduate Student, Indiana University, Bloomington, Indiana
Graduate Advisor to the Communiversity Consumer Center

Since President Kennedy's presentation of the Consumer's Bill of Rights, another right has been added. According to the late President, consumers have the right to choose freely, to be informed, to be heard and to be safe. Consumers, business persons and government officials have recognized the right to redress[1] as the fifth right of consumers.

Professor Hans B. Thorelli of Indiana University spent an evening with students involved in consumer action programs from a number of campuses and presented us with an analytical view, a systems view, of the field of consumer policy. He said, "In thinking of means of consumer policy, I prefer informing people to educating them and I prefer educating them to protecting them."[2]

With Dr. Thorelli's permission I have modified his matrix, pictorially representing consumer rights/consumer responsibilities along the horizontal axis and consumer policy along the vertical axis. However, as the student leaders were told,

> In its own primitive way, the matrix tries to make two vital points: First, that the enforcement of literally every consumer right logically depends on all three types of consumer policy; that is, education, information and protection. Secondly, that for every consumer right, there is a corresponding responsibility. The lesson here is a simple one: no matter how aggresively we may be using consumer policy, it will not in itself suffice to enforce consumer rights. In the end, consumer rights will exist only if at least some individual consumers really exercise some of their rights and responsibilities at least some of the time.[3]

CONSUMING EDUCATION: RIGHTS & RESPONSIBILITIES

Consumer Policy	CONSUMER RIGHTS				
	Choose Freely	Be Informed	Be Heard	Be Safe	To Redress
Education	Decision making, Budgeting, Nature of market, Economy	Generic "product" data: Information sources	How to assert consumer rights	User manuals, Importance of health and safety	AVAILABLE CHANNELS AND REASONABLE EXPECTATIONS
Information	Buying criteria, Buying advice	Independent consumer info programs	Market research	Safety certification, Health inspection	PREPURCHASE, POINT OF PURCHASE AND POST-PURCHASE NOTIFICATION
Protection	Anti-trust, Stop hi-pressure and deceptive tactics	Informative advertising, Claims sub-stantiation	Complaint handling machinery	Minimize health and accident risks	ADJUSTMENT, COOLING-OFF, REFUND OR ARBI-TRATION MECHANISMS
	Choose Wisely	Keep Informed	Sound Off	Safety First	Seek Redress
	CONSUMER RESPONSIBILITIES				

A third dimension of the matrix would show the makers of consumer policy. Please note that this matrix assumes the right to consume (right to education).

Special thanks to H. B. Thorelli for permission to revise his copyrighted work.

As is emphasized in the matrix, successful consumer policy can be a "mix" of any number of the policy options. I would stress, as a test for redress, determining whether the system facilitates seeking redress by consumers rather than providing redress to them. This, too, is part of one's education and a valuable aid in restoring a sense of direction and involvement for the person seeking redress.

To this end of self-help, the National Business Council for Consumer Affairs, a presidential advisory council of 113 business and industry leaders reporting to the secretary of commerce, wrote, in a report entitled Complaints and Remedies,

> It is always preferable for complaints to be resolved wholly, voluntarily and directly between sellers and consumers. This tenent should be reflected in every procedure established by business firms to handle and resolve consumer complaints. Accordingly, we recommend:
>
> Recommendation 1
>
> The handling of consumer complaints should be swift, personalized, courteous and as effectively managed as any other prime importance to the company, including increased personnel training in the handling of consumer communications, complaint followup and appropriate involvement by senior management.[4]

The NBCCA report's second recommendation,

> Recommendation 2
>
> The money-back policy should be fully explored by companies not now offering it and should be adopted wherever feasible as a means to resolve directly disputes with consumers.[5]

With adjustments for pro rate or identifiable expenditures, this could do much for student consumers of an institution's goods and services. The NBCCA offers another alternative:

> Recommendation 3
>
> Where refunds are not a practicable course of action, the feasibility

> of third-party complaint settlement procedures such as mediation and arbitration should be considered by sellers as an alternative form of redress.[6]

Complaints and Remedies makes the following point in closing:

> Different needs of different companies all dictate against a universal approach to consumer remedies, but for every industry there is some form of redress that is attainable for sellers and fair to buyers.
>
> We commend to every enterprise an unrelenting search for that system.[7]

Where the Business Council's report leaves off, you/we begin. In recent correspondence with John R. Proffitt, director of the Accreditation and Institutional Eligibility Staff of the U.S. Office of Education, I learned that, "We are not aware of any 'model redress procedure' for student complaints, with the notable exception of the newly issued model legislation proposed by the Education Commission of the States ..."[8]

The Federal Trade Commission's Consumer Bulletin No. 13 concludes by saying that one seeking redress must prove two basic facts: (1) you were fooled or deceived ... by a salesman, by an advertisement or by the school itself ... because it did not live up to the terms of the contract; and (2) you lost something because of being fooled, such as your time or your money.[9]

After stressing the importance of taking one's complaint to the school first, the FTC guide suggests, should the school be uncooperative, contacting the state licensing agency, the accrediting agency, the state attorney general, a Better Business Bureau, the Chamber of Commerce, the media, a newspaper "action line," an elected city, state or national official, the U.S. Office of Education, the Veterans Administration, an FTC regional office or filing suit, where opportune, in small claims court.

Where the National Business Council for Consumer Affairs recommendations end; where the Federal Trade Commission's Consumer's Bulletins end; where the third dimension of the Consumer Policy, Rights and Responsibilities Matrix comes to life is in the Education Commission of the States' model state legislation, sections 2, 5, 6, 13, 14, 15, 18 and 21 concerning redress. The sections discuss protecting and insuring rights and remedies, investigative powers, cancellation and refund policies, complaints violations, judicial review, bonding, holder-in-due course and court jurisdiction.

In review, there is a wealth of information and procedural guidelines for "educational redress." There is, however, no recognized central clearinghouse for consumer education, consumer information or consumer protection in postsecondary education. With passage of the model state legislation, student consumers, legitimate institutions, government and the public interest can be served by emphasizing the three R's of postsecondary consumer protection: consumer rights, responsibilities and redress.

FOOTNOTES

[1]The American College Dictionary (New York: Random House, 1969), p. 1015. The American College Dictionary defines redress as: (1) the setting right of what is wrong; (2) relief from wrong or injury; (3) to set right, remedy or repair; (4) to correct or reform; (5) to remedy or relieve; (6) to adjust evenly again, as a balance.

[2]Hans B. Thorelli, "Consumer Policy--A Three Dimensional View," presented at the Second National Conference on Student Consumer Action, Bloomington, Indiana, October 1972.

[3]Ibid.

[4-7]Ibid.

[8]John R. Proffitt, Director, Accreditation and Institutional Eligibility Staff, Bureau of Higher Education, U.S. Office of Education, Department of Health, Education and Welfare, correspondence of Nov. 20, 1973.

[9]Consumer Bulletin No. 13, Federal Trade Commission, Washington, D.C., 1973, p. 23.

SUGGESTED ADVERTISING GUIDELINES FOR EDUCATIONAL INSTITUTIONS

William A. Goddard, Executive Director
National Association of Trade and Technical Schools

The growing competition for eligible students during this decade coupled with the increasing reliance on tuition revenue to meet expenses has accelerated recruiting efforts within the educational community, sometimes to the point of being overly aggressive. The abuses that accompany such practices heretofore were attributed to only a few disreputable and unethical schools, usually in the proprietary or religious sectors. Now, however, consumer protection organizations are becoming aware of advertising and promotional efforts by respected universities, colleges and other traditional institutions that are soliciting prospective students through unorthodox, and sometimes questionable, tactics. The sanctity of higher education may soon be considered a myth as governmental and private groups extend their scopes and declare that all educational institutions, both public and private, nonprofit as well as profit-seeking, are within their jurisdictions as they mount ardent efforts to protect citizens from deceptions in the marketplace.

The practices are covered by the broad term, advertising. This paper is designed to guide schools[1] and their recruiters away from advertising pitfalls that have been brought to the attention of Better Business Bureaus, accrediting bodies and several private and governmental organizations concerned with the commercial practices of educational institutions. It has been compiled from many sources as a practical aid to good schools in their advertising and promotional efforts; it is not intended to serve as a comprehensive or precise guide in the dynamic field of advertising.

It does not purport to be all inclusive, but seeks instead to summarize most current concerns and to identify many areas in which schools should exercise caution and diligence in their promotional efforts. It covers broad principles and does not attempt to identify all permissable or objectionable advertising practices. Hopefully, it will convey thoughts that should be helpful in preparing and evaluating educational advertising.

While this paper gives some illustrative and specific examples, it is important to emphasize the need for sound judgment in each individual situation. Many points are covered in abbreviated form in the interest of space limitations. The fundamental concept of each item should prevail in the application of these guides.

A basic advertising policy for educational institutions can be stated as follows:

> In the solicitation of students, a school should not directly, or by implication, misrepresent the services it renders. All advertisements and promotional literature used should be truthful, informative and constructive and avoid conveying any false, misleading or exaggerated impressions with respect to the school, its personnel, its courses and services or the occupational opportunities for its graduates. The true purpose and nature of a school's offerings should be evident in all advertising. Every advertisement should constitute to the reader a clear statement of a bona fide offer or announcement made in good faith. It should be written to its anticipated readership, normally persons unsophisticated in the traditional word usage of the education industry. Therefore, words and emphases must be truthful and selected with extreme care.
>
> All advertising should forthrightly disclose the purpose of the advertising--that education or training, not a job, is offered, and that the advertiser is a school. If training for employment is advertised, the name and nature of the occupation for which the training is offered, as well as current and anticipated conditions and opportunities at the school and in occupational areas, may not be obscured or exaggerated.

Definition. "Advertising" includes any form of public notice however disseminated or utilized. Within this definition would be virtually all publications and promotional items and efforts that could normally be expected to be seen or encountered by significant numbers of prospective students or their sponsors. Examples include catalogs and other school publications, signs, mailing pieces, specialities, radio, television, audiovisual, newspaper or any other form of public notice resulting from the school's recruiting and promotional activities.

Name. The correct name of the school is to appear in all advertising. Blind ads are considered misleading and unethical.

The name itself is not to be misleading. It must clearly identify the organization as a school and have no tendency to exaggerate the size, scope, organizational status or offerings of the school. There may be no implication the school is governmentally owned or supported, unless such is factual.

Location. The location of the available training facility should be indicated for each advertised offering, except in limited-space media ads when the location is not subject to being easily misunderstood.

Advertising for multiple locations should disclose which offerings, if any, are not available at each listed location.

Age. Mention of a date of founding or establishment or other reference to the age of the institution will refer only to the age of the school itself and its period of continuous operation as a school, not to its parent organization or affiliates.

Accreditation. Reference in advertising to accreditation is limited to official accreditation achieved and currently held by the school through nationally recognized accrediting agencies and associations as defined and listed by the U.S. Office of Education.

An accredited school may refer to its accreditation by imprinting the official seal of the accrediting agency on or within advertising, literature or publications, or by other statements specifically authorized by the accrediting agency. The following statement may also be used immediately following authorized references:

> The (name of accrediting agency) is listed by the U.S. Office of Education as a nationally recognized accrediting agency under the provisions of Chapter 33, Title 38, U.S. Code, and subsequent legislation.

An organization consisting of accredited and nonaccredited schools or divisions may mention the fact of accreditation in joint advertising, literature, publications or other promotions only if the accredited status of each school or division is clearly indicated.

The word accredited is not to exceed in size or boldness that of the remainder of the statement referring to the accredited status of the school.

Approvals and Affiliations. Advertising of many approvals must disclose the nature of such recognition and by whom.

Schools affiliated with or owned by other organizations may not over-emphasize the relationship in a manner that would tend to exaggerate the relevance of benefits which might be generally expected to accrue to the students of the school as a result of the affiliations.

Advertised affiliations with other schools or allowance of transfer credits must disclose any limitations to open transfer between the institutions at the option of the student.

When other firms or organizations are listed in advertising, it is to be done with permission and in compliance with any policies or restrictions which that organization imposes on the use of its name and may not exaggerate the nature or relevance of the recognition.

Advertised credentials, memberships or accomplishments of individuals associated with the school should be identified as such and not imply endorsement of the school by other organizations.

No trade name, address, insignia, illustration, emblem or any other means may be used when it might tend to create a false impression that the school is connected with or is an agency of government, unless such is a fact.

The school is responsible for knowing restrictions when mentioning a governmental department or agency. Limitations in mentioning federal programs are apparent in the following statements issues by appropriate federal agencies:

(a) "A claim that a course is approved by the Veterans Administration is a misrepresentation of a material fact."

(b) "Any advertising statement concerning approval for attendance by nonimmigrant students shall be limited solely to the following: This school is authorized under federal law to enroll nonimmigrant alien students."

(c) "In reference to the availability of FISL financing in media-advertising and promotion, the only authorized reference is 'Eligible Institutions under the Federally Insured Student Loan Program.'"

(d) "It would be inaccurate for a school to state that it has been approved for social security purposes."

Organizations with more than one type of school at the same location using the same name may find it necessary to identify the separate divisions when referring to various approvals or recognitions that would not encompass the entire organization.

Catalogues. A prospective student is entitled to sufficient data to make an informed decision on training opportunities and institutions. A school is therefore obligated to provide sufficiently detailed data in advance of enrollment to enable prospective students to clearly understand their opportunities, limitations and obligations.

Each school should prepare and make available a publication that is readily identifiable as a catalogue. The catalogue should be designed and written to convey accurate impressions of the school. It should avoid false, misleading or exaggerated statements.

The following items are suggested for catalogues. If any of these items are omitted, the catalogue should refer to the specific published documents containing items or data not included in the catalogue:

1. Name and address of the school.
2. Date of publications.
3. A statement of institutional philosophy.
4. The admission requirements and procedures.
5. The educational objectives of each course, including the name, nature and level of occupations for which training is provided.
6. The number of hours of instruction in each course and the length of time in weeks or months normally required for completion.
7. The scope and sequence of courses offered specifying sufficiently the subjects included in each course to clearly identify the coverage of the program.
8. A brief description of the school's physical facilities, equipment to be used in class and the maximum or usual class size.
9. Policies relating to tardiness, absences, make-up work, conduct, termination, re-entry and other rules and regulations of the school.
10. The grading system, including a definition of ratings and credit units, if any.

11. The required levels of performance for graduation.
12. A statement of certificates, diplomas or degrees awarded upon graduation.
13. A statement of tuition and other student charges related to the enrollment, such as deposits, fees, books and supplies, tools and equipment, room and board, transportation, and any other charges for which a student may be responsible.
14. A statement of the cancellation and refund policy of the school.
15. A detailed and explicit description of the extent and nature of part-time or full-time job placement assistance, if any, available to students and/or graduates.
16. Specifics describing the availability of housing, counseling and the extent of other student services.
17. A school calendar including beginning and ending dates of classes and programs (if appropriate), holidays and other dates of importance.
18. Any other material facts, concerning the school and the courses of instruction, that are reasonably likely to affect the decision making of the potential student.

Advertising Space Limitations. Although it is recognized that advertising space limitations might restrict desirable explanations, the text should avoid abbreviated claims that might tend to be easily misunderstood. If an item is considered important enough to be included in advertising, it should be presented in a manner clearly understandable to anticipated readers.

A school may not claim space limitations as a reasonable excuse for limited disclosure that could tend to obscure, conceal, mislead, omit, deceive, confuse, distract or otherwise contrive to create substantial misunderstanding or criticism.

Emphasis. Emphasis should be on the education and training offered by the school. Other factors of lesser relevance to the typical[2] reader should be subordinated.

Exaggeration, overenthusiasm or overemphasis on the various advertising positives could distort the realities of what can be attained by typical students and graduates. Relative position and type sizes, proximity to

illustrations and other significant features of the message, color and other forms of modification can sometimes tend to overemphasize points of lesser relevance.

During a general decline in hiring within an industry, emphasis on employment might be considered to be deceiving to unsophisticated prospective students.

Objectives. Impressions of objectives as read in advertising must be consistent with the school's stated objectives as based on the reasonably expected attainment of typical graduates.

Overstated objectives of a school and its training have been found in course and job titles, types of completion certification, mention of credit transfer, non-offered courses, class size and comprehensiveness of instruction.

Agents. A school's officials must accept full responsibility for advertising prepared and placed by its representatives, advertising agencies or others involved by the school in its recruiting and promotional efforts and should therefore review and approve of such advertising in advance of its use.

Disclosure. Catalogues and other brochures published by the school should clearly disclose, in advance of enrollment, normal and traditional limitations and restrictions, if any, on admissions and employment opportunities, such as medical requirements, licensing, internship, apprenticeship, union, age, education, examination and experience requirements.

Documentation. An affirmative claim should not be used unless there is a reasonable basis for making such a claim. Advertising claims are to be used only when they are supported by previously documented factual data or research that are available on the school premises for review by interested persons.

A relatively insignificant number of cases should not be used as a basis for advertising claims. The incidental achievements of a few persons, while perhaps providing an aura of great promise, are not sufficient grounds for embellishments in advertising.

Overstatements, Superlatives, Exclusives. Superiority claims, measurable or unmeasurable, are not considered to be appropriate for the intangible services offered by schools when the student's ultimate degree of success depends to a great extent on factors which are not under the direct control of the school.

Irrelevant factors such as "oldest" or "largest" should not be used.

Generally, subjective superlatives cannot be satisfactorily documented and should not be used. Objective statements or claims that tend to imply superiority may be used only when truthful and measurements are made by independent experts in accordance with generally understood and acceptable standards and supportive evidence is available at the school for review.

The word "the," when improperly used, has been considered as part of a claim of exclusivity when it tends to limit the offering to the advertiser. However, "one of the" might be used when appropriate and documentable.

Bait Advertising. So-called "bait-and-switch" advertising is unacceptable. No course or service may be advertised when the offer is not a bona fide effort to sell it. Course listings are to be limited to those courses that are currently available and scheduled.

Use of a recruiting plan that tends to prevent or discourage recruiting personnel from selling certain advertised services would normally indicate that such services should not be advertised.

Even though the true facts are subsequently made known to the prospective student, the first contact or interview may not be secured by deception. For example, solicitations should not use such words as "survey" or "research."

Free. The word "free" may not be used for items or services provided "without additional charge," but only when there is unconditional access without cost or obligation of any type. Almost everything a school offers to its students is normally paid for, at least in part, by students.

Items such as catalogues may be advertised as free only when offered generally to all persons without cost or obligation.

Endorsements. A testimonial or endorsement should be dated and must be correct, factual and contain no misleading or exaggerated claims. Segments should not be taken out of context or combined so as to alter the meaning of the original statement. It may not be fictitious or make statements or conclusions known by the advertiser to be incorrect. It must be from a reliable person and contain no misstatement of facts or misleading implications and it must reflect current conditions and the current opinion of the author. Documentation supporting any use of testimonials and endorsements must be maintained on the school premises for review.

Individual names and photographs may be used in advertising only when authorized by the individual person in writing.

Use of trademarks or mention of endorsements from persons or organizations may be used only as authorized after receiving written permission.

When a connection exists between the endorser and the school, and when that connection could be considered a material fact in the context of the advertisement, such connection should be fully disclosed.

When using endorsements that are purported to be those of "typical" students and graduates, the advertising should reflect the average and ordinary experiences of students and graduates generally.

The Federal Trade Commission has prepared six detailed guides on this topic that should be studied by schools considering use of endorsements or testimonials in advertising.

Quotations. Statements from outside sources should be used only while they portray an accurate reflection of opportunities available to the school's typical prospective students without need for further education or training, unless the additional requirements are clearly disclosed. Disclaimers or other qualifying limitations made by the quoted source should be disclosed.

Language and Word Usage. Clarity is a most important element of school advertising. Advertising should be directly relevant to student solicitation and is to be written to its anticipated readership, normally persons unsophisticated in the traditional language used in education. Therefore, words must be selected with extreme care.

Advertising claims that might be construed as literally true must be literally true. If there is doubt, the burden will be on the advertiser to document the claim and prove the point.

Schools should avoid the use of sensitive words that might mislead, confuse, offend or which might be subject to easy misunderstanding or considered to have a double meaning.

Illustrations. Schools should use no illustration or accompanying statement that might tend to convey a false or exaggerated impression.

Illustrations and other copy should be accurately prepared and pertain directly to the institutions and to its typical students and graduates.

Illustrations from any source that might incorrectly imply portrayal of the school facilities, equipment or other conditions should not be used unless captioned with illustration sources or other clear disclosures to avoid false or exaggerated impressions in the minds of readers.

Unless an entire building or facility being illustrated is normally used exclusively by the school, captions must clearly disclose the portion occupied by the school.

A photograph of an individual may be used only after receiving his written permission.

Financial Aid. Advertising of "outside" financial aid programs sponsored by others is to be in accordance with the advertising limitations of the sponsors and should not be shown in a manner that indicates those programs are generally accessible and available to the readership unless such is a fact.

Tuition fees and any other costs for which students or their sponsors are responsible should not be represented in any way as being less than they actually are.

If a feature of credit, such as down payment or periodic installment payments, is mentioned in advertising, all other important terms and conditions must be mentioned in compliance with federal and state truth-in-lending requirements.

"Student loans" should not be used to describe financing arrangements, but only to identify specific funds available for borrowing by the student.

If third parties, such as finance or collection agencies, are to be involved in advertised financial arrangements, such involvement should be disclosed.

Advertisements may not be used to sell loans, for example: "learn now, pay later," "Government Loans Available."

Mention of institutional eligibility for federal grants, loans or other student financial aid programs in newspaper, TV or other common media advertising should be limited to the announcement, "Eligible institutions under the (name of program)."

Scholarship programs are to be advertised only when bona fide awards are offered with conditions and limitations being clearly disclosed.

Employment. Vocational school advertisements should clearly indicate that occupational training, and not employment, is being offered. There should be no overt or implied claim of any employment guarantee either during or upon completion of training.

Advertisements should not tend to imply they are "help-wanted" ads or otherwise imply that any specific jobs are available now, or will be available or offered after completion of the course.

Advertising of salaries and other occupational opportunities should clearly disclose the normal range of salaries and opportunities available to typical students immediately after graduation. The normal range should be expected to exclude the top 10 per cent and bottom 10 per cent of the graduates. Claims should also avoid "high starting salaries," "top paying jobs," "high pay" and other exaggerated approaches. Large earnings should not be implied.

Listings of potential employers, if used, should include only those organizations that have previously employed students of the specific school and that can be reasonably expected to employ additional students immediately upon graduation.

Mention of job titled in advertising should avoid misrepresentation of the level of employment available to typical students immediately upon graduation.

Emphasis on placement assistance or other services should clearly reveal their nature and scope and not exaggerate the degree of aid and success that a typical student or graduate may reasonably expect.

Placement assistance or other services provided at no additional cost may not be described as "free." Use of terms such as "national" and "lifetime" are generally considered to be exaggerations in describing placement assistance.

Disparagement. Advertising should emphasize the merits of the school in a manner that will not cast derogatory or inaccurate implications or disparage other schools, their activities or their students. It should not discredit or tend to criticize directly or by implication any school,

program or person connected therewith, and should not attack any individual race, creed, religion, sex, organization, institution, business, profession or occupation.

A school should not encourage a student to leave another educational institution nor to change his plans after he has signed an enrollment agreement and paid the application or registration fee of another school.

Irrelevance. The emphasis in advertising should be on the education and training being offered by the school, omitting irrelevant and extraneous matter.

Classified Advertising. A school may not request a misclassification of its advertising or allow others to use its name or offerings in inappropriate classifications.

Help wanted or employment classifications should be used only to procure employes or agents for the school, never to attract students.

Summary. Recognizing that flexibility is needed to meet ever-changing advertising principles and that there are differences in opinions on what constitutes good advertising, this document should not be construed as a comprehensive compilation of all possible considerations in preparing advertising copy. Schools should be constantly alert to the accelerating need for clearer and more descriptive advertising and promotional aids.

It can be reasonably predicted that concerns will continue to arise despite the exercise of all possible diligence and control of advertising by the school. Anticipation of inadvertent mistakes that cause criticism

of a school's advertising should lead to preparation of policies for quick and effective adjustments of advertising-related complaints and a change of advertising when evidence of misunderstanding occurs.

Finally, the two simplest rules for most educational advertising claims:

> Statements should be carefully directed to those prospective students whom the specific advertising medium is expected to reach; and schools should be prepared to verify from their own records everything said in their advertising.

FOOTNOTES

[1]The word "school is used throughout this paper in its broad, traditional sense to mean any institution of learning.

[2]The word "typical" is used frequently in relation to students, graduates, jobs, salaries and readers of advertising to mean, generally, the middle 80 per cent of the particular grouping.

CONSUMER PROTECTION IN POSTSECONDARY OCCUPATIONAL EDUCATION: ONE VIEW OF THE PROBLEM AND A SUGGESTED STRATEGY FOR SOLUTION

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Introduction

Two basic approaches exist for consumer protection. The first is to exercise a measure of quality control over those products or services available for consumer purchase. The second is to provide the consumer with comparable facts for use in deciding to purchase one product or service as opposed to others that are also available. It is unnecessary to choose between these two approaches. It is both unproductive and unwise to argue for the merits of one through criticizing the other. Rather, a truly comprehensive program of consumer protection welcomes and utilizes both of these basic approaches.

When only one of these two basic approaches is applied, the consumer cannot be fully protected. The "quality control" approach, if applied alone, leaves the consumer at the mercy of those organizations annointed with the "quality" label. Such organizations are free to use an almost infinite variety of marketing mechanisms for encouraging consumer purchase. The "comparable facts" approach, if applied alone, requires the consumer to make two kinds of complicated judgments. First, the consumer must decide which of the available products or services are harmful or dangerous. Second, the consumer must then decide which, of those judged to be of acceptable quality, is really best for him or her. The process is difficult and very time consuming.

To date, in the area of postsecondary occupational education, we have applied the first approach in less than an effective manner and, for all

practical purposes, we have ignored the second. The consumer continues to suffer. To alleviate such suffering, it will be necessary to improve our efforts to utilize the first approach. It will also be necessary to initiate efforts aimed at utilizing the second of these two basic approaches.

The first approach involves processes such as accreditation, approval and licensing. This approach assumes that, given only quality educational institutions from which to choose, the particular choice that the consumer makes matters little. The consumer is protected by the agency or organization certifying quality. Such protection is typically given the consumer through providing a list of names of institutions that have met the quality control standards. While the consumer is encouraged to choose from among these institutions having met such standards, he or she is given no way of discriminating from among institutions on the list. The consumer is protected to the extent that the quality control agency has been successful in: (a) identifying all of the truly high quality institutions; and (b) preventing unqualified institutions from being included on the list. These are two quite different problems, neither of which has yet been solved by anyone. Great as the temptation is, I cannot afford the time required to comment further on them here.

The second approach assumes that the consumer can be fully protected only when provided with valid facts pertinent to the educational institutions the consumer is considering. Such facts should answer questions the consumer has in language that the consumer can understand. Facts should be presented in such a manner that the consumer can discriminate from one another and choose the one that best meets the consumer's personal needs and value system. Finally, such facts should be ones that the consumer can trust and that are known to be up-to-date. It is an approach that recognizes

the right of the consumer to choose on more than a binary basis (e.g., accredited or unaccredited; approved or unapproved; licensed or unlicensed). It also recognizes the responsibility of society for providing the consumer with a valid basis for making such discriminations and choices. It is this approach that I want to discuss.

A Strategy for Utilizing the "Comparable Facts" Approach in Educational Consumer Protection

The "comparable facts" approach to consumer protection, in the case of postsecondary occupational education, is simple and straightforward in its basic nature. There are 11 elements involved, each of which deserves brief description.

First, the facts to be presented must be ones that help answer real questions that real consumers have. Thus, it is essential that we begin by identifying such questions by listening to what the potential student of postsecondary occupational education programs is asking. Where we have done this, we have discovered that the consumer is not primarily interested in such variables as the number of square feet in the building, the number of degrees held by instructors, the number of books in the library, how long the institution has been in operation, nor arrangements used in paying for the maintenance or operation of the institutions. Instead, the generic questions asked by the prospective occupational education student (i.e., the consumer) is, "What is likely to happen to ME if I choose to enroll in this institution?" We have identified 50 specific subquestions most frequently asked by such students including:

1. What kinds of persons would I find in classes with me?
2. What would my total costs (not just tuition costs) be to complete training?
3. How do students pay the costs of attending this institution?

4. How does the institution compare with expectations of those who enroll?
5. How do present students evaluate the institution?
6. What proportion of students complete their training at this institution?
7. What proportion of students find employment upon leaving the institution?
8. What kinds of employment do graduates find?
9. Does the institution effectively help graduates find jobs?
10. How much money do graduates make on their jobs after training?
11. Does this training help graduates find and advance on jobs?

These are but a few examples of the kinds of questions prospective students of postsecondary occupational education ask.

Second, the influence of peer groups on student decisions must be recognized. We have over 40 years of research, in educational psychology, illustrating the fact that the peer influence is greater than that of parents, teachers, counselors or the institution itself. Prospective students of postsecondary occupational education would like to have questions, such as those listed above, supplied by present and former students from the institutions they are considering. They are more interested in what the institution's products (i.e., its students) say about the institution than in what the institution says about itself.

Third, it is essential that data collection instruments be constructed in ways that effectively take the first two elements into account. Stems for items must represent, at least in part, questions prospective students ask. Item foils must represent answers present and former students would actually give to such questions. By paying attention to both groups, it is possible to build a set of data collection instruments that accomplishes this goal.

Fourth, it is vital that data collection be carried out in a standardized manner so that data from various institutions can be validly compared. If

a standardized data collection system can be applied using a standardized set of data collection instruments, this goal can be attained. Such a system would allow for comparisons between similar types of training programs (e.g., "auto mechanics" in School A versus School B), between kinds of training (e.g., auto mechanics, electronics, cosmetology, secretarial, etc.) and between various kinds of institutions (e.g., public community college, private business school, technical institute, etc.) The use of standardized data collection instruments and data collection procedures allows us to cut across subject matter disciplines in providing data that will help the prospective student in his personal career decision making.

Fifth, it is necessary that data collection be conducted under a third party procedure--i.e., that the institution not collect its own data. No matter how trustworthy or conscientious, an automatic bias is always present whenever institutional staff members ask their students to evaluate the institutions. The only effective way of removing that bias is to have data collection carried out by trained data collectors who are not associated with the institution as direct employes.

Sixth, it is necessary that data be collected in such a form that they can be quickly and accurately processed and reported. Clerical errors that necessarily accompany any form of hand-scoring operation cannot be tolerated. Data useful for specific decision making is needed by prospective students as soon as possible after such data have been collected from present and former students. Any practical strategy must take this element into account.

Seventh, it is essential that data be distributed to prospective students and that such data be in a form that the prospective student can understand

the meaning of the data. The best data in the world is of little value unless the prospective student has ready access to it. If the student cannot easily understand and use the data once he received it, there is little point providing data in the first place.

Eighth, it is necessary that provision be made for systematically updating the data. Answers to the kinds of questions illustrated earlier tend to quickly get out of date. A "one-shot" approach to data collection and distribution is bound to have limited usefulness. Unless updated, the data may very well, after a few years, mislead prospective students. To whatever extent this is allowed to happen, the prospective student will be hurt more than helped.

Ninth, the strategy must be cost effective in terms of benefits it provides. With the millions of dollars now being lost through student loan defaults, the millions of dollars of VA benefits now being wasted by veterans who pursue inappropriate training, and the millions of dollars of personal funds students and their parents now invest in training of questionable quality, this is one of the easiest elements in the strategy to meet.

Tenth, the strategy must include provisions both for institutional self-improvement and for general assessments of institutional worth. That is, unless the strategy leads to positive suggestions for institutional improvement, the cause of consumer protection is only partially served. The strategy should supplement the "quality control" approach to consumer protection in ways that make both approaches complementary, rather than competitive, in their nature and operation.

Eleventh, and finally, it is vital that this strategy be one that is required on the part of educational institutions. The data that prospective

students seek, if given them in an objective and honest fashion, will cause them to reject many institutions that they might otherwise have been convinced to attend. To report the truth about an institution in a form that the institution itself neither controls nor conducts is bound to be threatening to many institutions--public and private alike. It is unrealistic to expect that educational institutions will submit to this kind of third party data collection, analysis and reporting system voluntarily. Some kind of "hammer," in the form of national/state/local laws, regulations or requirements will be an essential part of the strategy.

Readiness for Applying the "Comparable Facts" Approach

At this point, it seems appropriate to point out that the "comparable facts" approach to educational consumer protection is almost ready for use. All that is missing is the "hammer" described as the 11th, and final, step in the strategy. That is, I know the first 10 steps have been completed in at least one way because I have devoted the last 11 years of my professional and research efforts to doing so. The system that I have developed has grown out of the Specialty Oriented Student Research Program that I direct. It is a system that has taken 11 years and approximately $700,000 to develop. It does not now work because it is missing the "hammer" described above. Given this "hammer," it could work immediately and effectively on a national scale in a continuing manner. Let no one say that one would have to start "from scratch" if he wanted to utilize this approach to consumer protection.

At the same time, I hasten to add that the system I have developed is only one of several that could be utilized as strategies for this approach to consumer protection. Given sufficient time and dollar resources, I have no doubt but that others could develop much better systems than the one I have

been able to provide with the limited resources available to me. In saying that I have now developed such a system, I am in no way trying to discourage others from engaging in similar efforts. Rather, I am only trying to avoid the voices of those skeptics who are sure to content that such a system could never be developed. One such system is developed right now.

Concluding Remarks

Educational consumer protection is fully as important as consumer protection in any other area of society. Full consumer protection, with regard to any product or service, demands a combination of the "quality control" and "comparable facts" approaches that have been described here. It is, in my opinion, inexcusable that education has been allowed to operate with only a "quality control" approach to educational consumer protection. No matter how much effort is exerted to improve the "quality control" approach to educational consumer protection, nor how successful such efforts eventually become, the educational consumer will never be fully protected until and unless the "comparable facts" approach is also utilized.

The "quality control" approach to educational consumer protection can be made to protect the consumer against facts and conditions that he cannot possibly know nor control. The "comparable facts" approach to educational consumer protection can operate in ways that help the individual choose wisely from among all possible alternatives available to him or her. The educational consumer deserves both of these basic kinds of protection.

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ACCREDITATION AND CONSUMER PROTECTION

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Federation of Regional Accrediting Commissions of Higher Education

Consumer protection is largely another term for accountability, and in education, accountability is really what accreditation is all about. But just as the concept of accountability has recently been given new dimensions of meaning, so too is the accrediting process adjusting and adapting to current needs and expectations.

Initially, accreditation served as a means of holding colleges and universities accountable primarily to each other, largely in terms of academic standards and admissions policies. In its early days institutional accrediting was conducted chiefly through the use of quantitative criteria, a practice with obvious limitations that could often be satisfied simply by the use of checklists. The weakness of this approach soon became evident, and in order to avoid stagnation and standardization and to foster greater effort toward achieving educational excellence, the emphasis gradually shifted to the use of qualitative criteria. The announced purpose and objectives of each institution began to take on new importance as they became the context within which it was evaluated.

Accreditation has always been three-dimensional, each dimension important in itself but equally essential and related to the others, and all directly pertinent to the principle of accountability. Thus, the accrediting process is directed toward holding educational institutions accountable:

- to their own purpose and objectives;
- to the educational community;
- to the general public.

The order is neither ascending nor descending, since each is inextricably intertwined with the others.

By insisting that an institution hold itself accountable to its own purpose and objectives, the accrediting process challenges it to clarify the reasons for its existence and identify the ways in which it can contribute significantly toward meeting the needs of society and the general citizenry. With proper focus and emphasis, perceptively and intelligently conducted, a continuing program of institutional self-study and research is one of the best guarantors that an institution will be sensitive and responsive to contemporary needs and trends.

But the process merely begins with the institution making an honest and searching appraisal of its own effectiveness. Professional expertise from other campuses also plays a central role in the accrediting process. Teams representative of the whole range of educational experience carry out intensive on-sight evaluations at periodic intervals, adding new dimensions and perspectives to an institution's own self-assessment, criticizing or suggesting as the need may be. Each regional commission adds still further depth to the accrediting process, combining the wisdom and perceptions of its members into a consensus of judgments and recommendations designed to stimulate each institution to work toward new levels of excellence and effectiveness. Success in the work of the regionals is not measured by the number of institutions they disaccredit, but rather by the extent to which the accrediting process results in the positive strengthening of each institution and thereby of postsecondary education generally.

Finally, the Federation of Regional Accrediting Commissions of Higher Education (FRACHE) serves as the keystone, holding the regional accrediting commissions together and promoting the quality and consistency of their work. The fact that fully one-fourth of the federation council's membership

is comprised of public representatives, unrelated in any professional capacity to any educational institution, assures that the public interest is both protected and advanced.

Although the foregoing refers specifically to the pattern of the regional accrediting commissions and FRACHE, the basic principles apply generally to all of the specialized and professional accrediting agencies as well, including those which work primarily with profit-seeking institutions. How, then, does this all boil down to vital protection for the consumer of post-secondary education, the individual student? In several important ways. First, by assuring that the catalogue honestly and accurately informs prospective applicants about the nature and range of course and programs available. If the catalogue is padded or misleading, this will quickly become evident to the accrediting commission. Prompt action usually follows to eliminate such abuses. Second, the quality and diversity of the faculty are promoted and protected through the accrediting process. Professional qualifications of the instructional and administrative staff are reviewed, the conditions of their employment are analyzed and the safeguards for academic freedom are carefully studied. If any of these are found to be so weak as to threaten the institution's quality or stability, its accreditation will be jeopardized. Third, the facilities and learning and teaching resources are assayed to insure their adequacy for support of the courses and programs. Fourth, the current financial strength of the institution is analyzed to ascertain present stability and the prospect for continuity. A whole range of other aspects of an institution is also reviewed as part of the accrediting process--personnel services, community relations, short- and long-range planning and much more.

In short, accreditation is a means of assuring the educational community, the general public and other agencies or organizations that an institution has developed clearly defined and appropriate educational objectives, has established conditions under which their achievement can reasonably be expected, appears in fact to be accomplishing them substantially and is so organized, staffed and supported that it can be expected to continue to do so. The concept of accreditation can thus be seen as a vital force for consumer protection in postsecondary education. It is also a significant factor in promoting the diversity and protecting the freedom of America's educational system. To the extent that we are all consumers of postsecondary education in one way or another, each of us has a crucial stake in promoting the effectiveness of the accrediting process and preserving the integrity of accreditation.

TRADITIONAL HIGHER EDUCATION: IS CONSUMER PROTECTION A LEGITIMATE CONCERN?

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A frequently stated view of the history of American higher education is that, until fairly recent times, the university was an ivory tower with walls covered by ivy, inhabited by mild-mannered students, dedicated, somewhat eccentric professors, functioning to produce an educated upper middle class of ladies and gentlemen. The view has in it elements of reality. For the most part, higher education was taken for granted and existed without serious question, either from within or without. Generally speaking, assumption of quality and respectability both in terms of program and in terms of personnel existed in traditional higher education from its beginnings to very recent times. In retrospect, the good old days were indeed good.

Even so, there were, from time to time, suggestions that while things are not as good as they used to be, maybe they never were very good at all.

The rise of public higher education in the 19th century and the growth of land-grant universities were signs that somehow the universities were not totally meeting the needs of a changing and growing society. The entrance into higher education of larger numbers of students from the middle and lower classes began to change the institutions, at first in subtle ways, often grudgingly accepted by the educational establishment. The rise of community colleges began to affect and sometimes trouble those in the traditional colleges and universities. And increasing federal government involvement in higher education, most massively begun during and after World War II through research grants and contracts, the G.I. bill

and other forms of student financial aid, wrought changes that would have been unthinkable a half-century earlier. The increasing costs of higher education in more recent years coupled with the national attention on campus disruption of the mid- and late-'60s, and with the demands on higher education for social action concerning the poor and minorities, in particular--these have combined to bring traditional higher education very much into the scrutiny of the public. Questions, unthought of a generation ago, are asked frequently and quickly now. And a whole new stock of words and phrases--like relevancy, accountability and even consumer protection--has developed for those now talking about higher education. The ivory towers may, after all, be merely concrete and the ivy may have poison in it.

The debates, in this new context, about higher education are both within and without the institutions. New faculty--and older faculty with changed perceptions of the role of higher education--are asking penetrating questions about long-accepted tenets of higher education--about tenure, about fair economic return for those engaged in teaching and research, about the relationship of curriculum, course programs, teaching and learning methods to the needs of students and of society. Students, who a few years ago questioned loudly, now react to the university by action--by turning to courses of study they consider relevant (the health sciences, law, social services--people-oriented courses) and away from the traditional (the humanities, the sciences, even the social sciences). And administrators are finding themselves dealing more and more with things of the marketplace--collective bargaining, budgeting of limited resources, the courts and legal ramifications of almost all aspects of higher education.

Outside the university, its publics are showing concern as well. Legislators ask more penetrating and sophisticated questions about what happens in our public higher education institutions. They show an increasing awareness of many things they never questioned before: student-faculty ratios, styles of budgeting, teaching and research productivity, placement, curriculum and so on. Especially with increasing costs, parents are probing and searching carefully before committing children and money to our institutions. Alumni and other potential donors have shown themselves also to be cautious in open-handed giving without first some satisfaction about what the institution is doing and what effect it is having on students.

In brief, there has been an expansion of the traditional collegiate opportunities to a wide range of representatives of the society, and this has brought about an erosion of the monopoly that the upper and middle classes had on entry into college. The composition of the constituents of traditional higher education no longer would be the elite only. Factors such as students on governing boards, collegiate experiences and training taking place in the community and responding to localized problems in the community, the increasingly rapid growth rate of the community colleges, a general raising of the question of student employability, higher costs and difficulties in receiving admission to professional and graduate schools--all this has resulted in a greater attention to public higher education and to much inquiry, reflection and debate.

Many federal, state and local agencies have expressed concern with consumer issues in these areas and have begun to translate these concerns into legislative and regulatory safeguards. Much of the current debate about accreditation, for example, centers around issues relating to the relative

importance of input factors (such as faculty salary levels, size of libraries) and output factors--the effect of the institution on the student, measured in various ways.

It no longer is taken for granted that traditional higher education is routinely expected to conform to certain standards, educationally, and that self-policing is always adequate.

Traditional higher education is very much caught up in this new interest in consumer protection. It is appropriate that it should be. And it should move quickly to meet this new challenge. Some of the ways the higher education community should move to deal with this new public interest concern are:

1. Cooperation with legislative bodies in the development of appropriate legislation governing bogus degrees, diploma mills, fly-by-night operations and other questionable, deceptive or fraudulent practices. The new Education Commission of the States' model bill on this is an excellent start.
2. Cooperation with federal agencies--the Veterans Administration, the U.S. Office of Education and others--in developing adequate safeguards for the public in the administration of federal education programs.
3. Cooperation with both institutional and program accreditation groups to assist them in a constant updating of standards for accreditation and methods of accreditation. Part of this effort for strengthening voluntary accrediting agencies should be a resistance to governmental accreditation. I am convinced that professional, voluntary self-policing is the most effective and efficient route to quality, to innovation, to true consumer protection.

4. And, finally, each institution, every one of us, has a real and present obligation to assess our own institution, to be certain that we, individually, are providing the right kind of climate for effective learning, that we are doing the best job we can through our teaching programs, through our research activities, through our service to people. If we take this task seriously and do it well, then we will be offering the right kind, the best kind, of protection to our consumers.

CONSUMER ADVOCACY AND STUDENT CONSUMER PROTECTION IN POSTSECONDARY EDUCATION

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The growth of the consumer movement over the last decade has been fueled by the simple American insistence on fairness and honesty. It is one more expression of our striving for equal justice, equal rights and equal protection under the law. It was the threatened loss of these honored American traditions in the impersonal marketplace of post-World War II that galvanized citizens into organizing as consumers.

The consumer movement is not ideologically based. Meetings of consumer group leaders are more likely to focus on topics and on tactics than on theory and theorum. Acceptance of the capitalist market economy as a democratic political system underlies the consumer movement no less than it underlies practically all other citizen organization efforts in this country. This fundamental conservatism of the consumer movement has not been readily perceived probably because, unlike other groups such as the Chicanos, the blacks, the poor and now the women who are also striving for equal rights, consumers in the United States represent not a deprived minority in the minds of our opinionmakers but a highly privileged majority.

The consumers of U.S.-produced automobiles, TV sets and packaged food represent the majority of our country and in the world view are exceedingly fortunate. Yet we all know discontent about many things as consumers and are actively asserting our claim to fair and honest dealings and to adequate protection of the law.

I cite this overview of the recently burgeoning consumer protection as a backdrop to our consideration of the consumer's right to fair dealings on the part of education providers. Until recently, the pattern in our country has been to view postsecondary education as a privilege, a good fortune participated in by the elite and the elect among us, whereas elementary and secondary education has long been considered a right of consumers and a responsibility of society to provide. Postsecondary education has been a privilege and often a private contractual relationship between the educational institution and the student. Many colleges were originally church affiliated. Society as a whole considered the relationship between educator and pupil a private matter of no concern to the state.

The attention of this conference, focusing almost for the first time to my knowledge on the student as consumer, is therefore as greatly welcome as it is overdue. Though much of higher education is today publicly provided, consumers find that to be no dispensation from responsibility as they pay their money for an invoice of services.

Consumers can be equally offended by mistreatment at the community hospital or at the private proprietary hospital. Similarly in this discussion of the consumer as students I will be making no fundamental distinction between the public and the private educational institution.

I would like to organize my discussion of our topic into three general areas. Three thrusts of the consumer movement are readily identifiable as consumers strive for equal rights, and I will discuss our concern for the consumer of postsecondary education in the framework of these three major thrusts.

The first is to hold accountable the person or organization to whom the consumer pays his money. The second is to achieve the right to participate in the decision-making process which establishes the basis of his relationship with the provider of the goods and services he uses. And third is an insistence that government perform the role of umpire, arbiter, policeman--making fair rules for traffic between consumer and seller and enforcing them fully and equitably.

Let me take these areas of consumer expectation one by one; first, discussing briefly each thrust broadly viewed and then expressed by the consumer's concern about postsecondary education.

Accountability

Many evidences of consumers striving to hold sellers accountable come readily to mind: Ralph Nader pressing General Motors for greater accountability in the safety of their cars; broad scale demand of consumers to know more about what food manufacturers are putting into our food and what packaged food products do for us and to us; the demand for warranties that truly warrant a product.

Many of these demands for greater accountability were made to lawmakers and resulted in legislation such as amendments to the Food and Drug Act and the creation of the department of transportation with responsibility for surveillance over performance standards for tires and requirement of safety equipment. In other cases, accountability is invoked by resort to the courts. For example, providers of medical care are increasingly being held accountable by consumers through malpractice law suits. In other cases, sellers are held accountable by direct consumer action such

as boycotts and picket lines, sometimes followed by mediation and arbitration. In brief, once consumers determine to insist on accountability when it is proven wanting, the approach to that end is pretty much sorting out the tactics most likely to achieve the objective. That tactic is often but not always through the legislative process.

Looking to the postsecondary education industry from the point of view of the consumer's drive for accountability, I would advance several minimal conditions of acceptable conduct:

1. To Do No Harm

   The ancient dictum to the medical profession, "Do No Harm," has yet to be fully observed by that profession, but it is scarcely honored even in the breech by some elements of the educational industry. To sell a consumer with a sixth grade education a course costing thousands of dollars purporting to train him to be a technical writer certainly violates the mandate, "Do No Harm." So does counseling a consumer into a two-year postgraduate course in hospital administration when previous years' graduates are in far greater supply than the jobs available. To induce a person to waste a year of his life in a fruitless pursuit is to do him harm.

2. Deliver the Goods

   Survey after survey in recent years has shown that first among consumer complaints to law enforcement authorities has been the failure of the seller to deliver goods paid for by the consumer. Undelivered merchandise is the most common complaint. Yet law enforcement authorities have been amazingly permissive where the product sold has been an educational service. The heavy equipment operator course taught with little or no

heavy equipment available for training has been sold for years. The training school promising jobs as checkout clerks in supermarkets is another notorious example of arrogant failure to deliver what the consumer has paid for.

Though perhaps less gross, there are many other examples. An airline stewardess I recently met who had struggled through four years of college training to be an elementary school teacher "because you can always get a job as a teacher" made it clear as she served a plane-load of passengers that she felt the college she paid had not delivered the merchandise. Many of the complaints law enforcement officials receive about undelivered merchandise are for amounts of $25 or less. By contrast, the failure to deliver education paid for can represent tens of thousands of dollars and years out of a person's life. Loss of a year's earning power can never be recovered.

3. Redress of Grievances

Consumers feel very strongly that no business or industry is adequately accountable to their consumers until they have an established identifiable commitment and procedure to redress grievances. Mistakes do happen, misunderstandangs do occur at best. At worst consumers are misled, misrepresentations occur. Avenues for the redress of grievances are an essential element of accountability. Where sufficient accountability is not volunteered and lived up to, it may need to be required by law if consumers of educational services are to enjoy equity in the marketplace. An all-too-common example of inadequate redress of grievances is the lack of an equitable refund clause in the contract of purchase of educational services. Many a correspondence school derives its profit from unrefunded tuition for uncompleted courses.

Hopefully, lawmakers seeking to insure justice in the marketplace will include the fair education contract in their legislative concern alongside the fair consumer loan contract, the fair retail installment contract and the fair commercial loan contract. We have laws in almost every state identifying illegal practices of the seller in the area of credit sales and consumer loans. This protective act of society is a recognition of the unequal bargaining power of the "necessitous" borrower vis-à-vis the lending institution. Certainly the inadequately educated unemployed worker or welfare recipient is as necessitous when contracting with a trade school to buy employment skills as the necessitous borrower when negotiating a loan. He is equally deserving of the state's concern that he be dealt with fairly.

Participation

Participatory democracy is a voice we hear from all sides these days. One definition of participatory democracy that I heard was this: When the powers-that-be in Texas are onto something good, they let a few Democrats in also.

Whatever the condition, the current common consciousness of "participatory democracy" gives witness to the desire and intention of the have-nots and is excluded to improve their position in the contest by demanding a larger role in the rule making. Consumers of educational services are no exception to this striving.

The National Association of Students with branches all over the country is affiliated with Consumers Federation of America. One well-established expression of students as consumers is the publication of quality ratings

of their professor's classes. Another evidence is the insistence of university students upon comprising part of the membership of search and screen committees that recruit department heads, deans and chancellors. Consumer-students won this right to membership on administrative decision-making bodies by strident and sometimes temporarily destructive demonstrations and demands during the '60s.

Where we are probably going to see more insistence on student participation in decision making is in the field of accreditation, licensure and certification. The students desirous of learning a marketable skill will be very impatient of administrative and government regulations that prevent him from learning from one with acknowledged mastery in that skill who happens not to have completed the academic requirements of certification. The eager student of mature years is likewise going to be impatient of any regulation that requires him to desert his job and family for years at a stretch to abide at a sequestered campus. Particularly, while he observes management staff in private industry gaining up-grading in-service-training by on-the-job and weekend conference courses. The open university, the clinical experience and off-campus work assignments as credit toward certification will be increasingly demanded as consumer-students participate in the governance of higher education.

Students and potential students will be demanding more and more to participate as voting members on state regulatory and licensing boards which have the power to grant or deny access to the practice of a profession, including that of professor and teacher.

Government, the Enforcer of Rules of Fair Play and Equity

The respect of our capitalistic society for a market economy has too often clouded our vision as to the true role of government in a free market economy.

To quote Adlai Stevenson, "Freedom is not a free-for-all." A free market means freedom of entry into fair competition. Fair competition--and equity between provider and consumer--requires a referee, an umpire who is empowered to apply the rules of reward and penalty equally to both parties.

Possibly not even the late robber barons of the '90s fostered the notion that they are above the law any more eloquently than do some educational entrepreneurs. The false cry of academic freedom can be held as a shield by educational entrepreneurs to back off elected government representatives from taking measures to give consumers a fair chance. But not much longer. Consumer-student advocates at the state level are insisting on equity.

To correct some of the current abuses perpetrated by entrepreneurs upon consumers of educational services requires clear insight into the contractual relationship that society allows and enforces. It requires acceptance by our lawmakers for seeing to it that the contractual relationship is fair and just, that the goods paid for are delivered and are what they are held out to be.

VOCATIONAL SCHOOLS--DECEPTIVE AND UNFAIR ADVERTISING PRACTICES

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Private vocational education is an important area for regulation by federal, state and private agencies. The impact of vocational education on our society is substantial. In purely economic terms, an estimated 10,000 proprietary vocational schools, with enrollments topping 3-1/4 million students, have an aggregated annual income of our $2.5 billion. Correspondence schools alone are estimated to have an average annual income of over $1.7 billion, with an annual enrollment of over 2,100,000 students. These figures, which are probably understated, indicate that students taking vocational school courses pay an average of about $800[1], but for what? For jobs and economic mobility. This expected return has tremendous psychological and personal importance for the individual student deciding to take a particular course. The importance to the student is mirrored by the importance to society.

Most students take vocational courses to get jobs. The major clients of vocational schools are servicemen and veterans, high school dropouts or graduates, the poor and the unemployed. According to one veteran school administrator, prospective students always ask, "How long does it take, how much does it cost, and do I get a job when I get through?"[2] The value of vocational education to most students lies in getting the job they trained for, which in turn will allow the student economic achievement and perhaps upward social mobility. The consumption of vocational education is quite different from the consumption of other consumer items. Taking

*The views in this paper represent only the views of a member of the Federal Trade Commission Staff. They are not intended to be, and should not be construed as, representative of official commission policy.

a vocational course involves hard work and does not afford the pleasure of most other forms of consumption. "Consuming" a vocational course requires large sums of money. Moreover, students taking one particular course forego taking others; they may pass up present job opportunities hoping to achieve a better job on completing the course. If no such job exists, the losses of time, money and job opportunities are in many instances irretrievable. We also should not overlook disappointment of the students' personal hopes and aspirations when the anticipated jobs do not materialize.

Vocational education involves substantial public interests in addition to the personal interests of individual students. Self-improvement is part of our national heritage. Many federal and state programs support vocational education. Veterans may receive benefits covering all or a portion of the tuition and living costs related to taking vocational courses. Vocational school students who attend eligible schools may obtain Federally Insured Student Loans. In this case the federal government guarantees that the loan will be repaid to the lender even if the student defaults. These and other federal financial assistance programs exist because federal policy is to help people go as far as their abilities will take them. For this reason, the federal government attempts to break the poverty cycle by encouraging the poor to improve themselves through vocational education. Moreover, encouraging vocational education as a means of maximizing individual productivity may be in the public economic interest. When graduates from vocational schools are unable to get the jobs for which they trained, the public interest is injured. It seems likely that most vocational school graduates who fail to get jobs will not be willing to invest the time, effort and money necessary to train themselves for yet another field.

All of these factors--economic, personal and public--together account for the strong public interest in vocational schools. When students are misled or deceived, or treated unfairly, society suffers as well as the individual.

One of the Federal Trade Commission's major tasks is to prevent "unfair or deceptive acts or practices in commerce...."[3] Over the years, this charge has necessitated frequent commission action with respect to private vocational schools. While obviously not all vocational schools engage in deceptive advertising practices, the practices of some schools have generated a significant number of consumer complaints. Unscrupulous operators may easily mislead prospective students. First, only the school has knowledge of its performance; the prospective student does not. Second, vocational school students seem somewhat less able than others to protect themselves, to evaluate on their own whether a particular course will actually lead to the sort of job they want. Over the years, the commission has witnessed and tried to prevent many types of deceptive and unfair advertising practices utilized by some vocational schools.

Below is a summary of a few of the advertising practices which I believe may be deceptive or unfair. Caveat, only some schools engage in such practices; however, they disproportionately generate litigation and consumer complaints.

(1) Demand for Graduates: Since students take vocational courses to get jobs, many deceptive recruiting practices relate to statements about employer demand for graduates of the course. While most schools, even the disreputable, now know that they would probably be violating

the law to guarantee employment, it is not necessary actually to guarantee employment to mislead. A school may make an advertising claim like: "Widget makers are in high demand. We offer training in widget making." The statement itself may or may not be true on its face. Further, while persons in that job category may be in great demand, persons taking the course may lack the experience or educational background necessary to qualify for the job, the course may not prepare the student for licensing or union membership requirements, or the supply of persons trained in the field may greatly exceed the demand.

(2) Help Wanted Ads: A school may advertise in newspaper "help wanted" classifications to obtain sales leads. Consumers call to check on what appears to be a job, only to be signed up for an expensive vocational school course that is supposed to prepare the students for the "job."

(3) Unnecessary Training: A school may offer training to prepare students for fields in which employers prefer to do their own training, yet the school may not disclose this fact. Special training may not be necessary to get the job.

(4) Courses of Little Value: A school may advertise that there is a great demand for persons in a particular field, which may in fact be true, without disclosing that employers consider training received at the school to be of little value. "Trained" persons may have no better job chances than "untrained" persons.

(5) Placement Service: A school may either say or imply that it offers a placement service that will get its students jobs when this is not the case. A school may also exaggerate the placement service's function or capacity. Many factors may limit what any placement service is able to do. A related type of deception is to claim that the placement service is free, when in fact the cost of the placement service is part of the tuition fee.

(6) Prestigious Companies: A school may claim that its graduates are hired by large, prestigious companies. Such a claim implies not only that the student will be able to get a job, but that the job will be a prestigious job with a prestigious company. The school may not tell the prospective student what per cent of its graduates get jobs with such companies (it may be quite small), when its graduates got these jobs (it may have been 10 years before) or whether the training helped the graduates get the job (it may not have).

(7) Industry Connections: A school may say or imply that it is connected with well-known industry or government organizations. The implication from this is that the organization will hire graduates of the school. In fact there may be no connection. Even if there is a connection, the organization may not hire a significant number of the school's graduates. Some schools also suggest that they are connected with particular government agencies or with employment agencies when they are not so connected.

(8) Necessary Education: A school may say or imply that a certain level of education is not necessary or helpful to its graduates in getting

jobs. In fact, employers may prefer or require persons to have advanced education, placing another hurdle before the job seeker with less education.

(9) Accreditation: A school may say that it is accredited when it turns out its "accreditation" is from a "dummy" organization. Even schools accredited by legitimate accrediting commissions may imply exaggerated significance for accreditation. Accreditation does not guarantee that a school has no consumer protection problems. It does not guarantee that graduates of every accredited school will get jobs or that every school and every program is the right one for every student. A related type of deception involves approval for veterans or Federally Insured Student Loan benefits. Such approval likewise is no guarantee of a problem-free school. Yet another deception is the implication that a school's courses are all accredited or approved, when in fact only some are.

(10) Enrollment Qualifications: A school may misrepresent its enrollment qualifications. It may say or imply that only a select few are admitted, when in fact anyone with money may be admitted. It may say or imply that its enrollment qualification tests will tell students whether they will be successful in the industry for which the school offers training, when in fact its tests can't determine this.

(11) Salary: A school may misrepresent the salaries that its graduates earn or have the potential for earning. First, some schools only show the salaries of those graduates who get jobs, but in some instances only a small percentage of graduates actually get jobs. Second, some

schools only list the highest salaries earned, when in fact most graduates who get jobs may earn considerably less. Third, some schools may list general industry salary levels that their graduates may never earn. Fourth, not all persons in a particular occupation earn top salaries, but some school ads imply that such salaries are within reach of a substantial number of their graduates.

(12) Quality of Instruction: The mere offering of a course implies that the instruction offered is of sufficient quality to prepare the school's students to handle the jobs for which they obtained training. If, however, the faculty, equipment or textual material is inadequate, the preparation will not be good enough. (Even a course of the highest intrinsic quality, however, may be of no utility to its students if a substantial number of them are unable to find jobs. See paragraph 1 above.)

(13) Part-time Employment: A school may say or imply that it will arrange full- or part-time employment for its students while they are in school when the school is unable to do so. Such schools may leave students unable to support their families.

(14) Particular Instructors: A school may say or imply that certain persons well-known in their field are members of their faculty, when in fact such persons do not actively participate in the school's affairs. Students signing up at the school to take advantage of these persons' expertise would therefore not be able to get it.

(15) Status of Salespersons: Salespersons at a school may say or imply that they are trained vocational counselors or advisors who are in a position to give disinterested career advice to prospective students.

In fact, such salespersons may have a direct or indirect economic interest in the prospective student's decision. Hence the salesperson cannot give disinterested career advice even if trained to do so (most salespersons are not).

(16) Negative Selling: A school may make prospective students "prove" to the salesperson that they should be admitted to the school. This practice misleads by implying much stricter enrollment qualifications than the school may actually have. This practice is also unfair because it disarms the student, decreasing the likelihood that the student will ask the necessary searching questions about the school and its program.

(17) Course Objectives: A school may indicate that the course objectives of its courses are one thing, when in fact those graduates of the school who get jobs may get jobs that are not the stated course objective. Instead, they may get jobs that are less prestigious, with less salary and with less chance for ultimate advancement than the job they thought they were training for.

(18) Course Adequacy: A school may promise to provide training in fields where only actual experience with the equipment is adequate to prepare the student and either not provide that experience at all or provide only an inadequate amount.

(19) Limited-Time Offers: A school may promise a substantial price reduction for signing up immediately under a "special offer ending tomorrow." In fact the "special offer" seems to be continuous. A related deception

may be the admonishment to sign immediately because the school's classes are almost all filled up, when in fact classes start frequently or are not filled up.

(20) Diploma Mills: A school may hand out diplomas for little or no effort by the student. The student may be misled into believing that the degree is worth something. The future employer may hire such a "student" based on misleading educational credentials.

(21) Talent Hunts: A school may use deceptive "talent hunts" to obtain students. Students "winning" the talent hunt are led to believe that they are especially qualified for the field for which the training is offered.

(22) Job Qualifications: The mere fact of offering a particular vocational course serves as a representation by a school that the student who completes the course will be qualified for the job for which the training was obtained. The truth of the representation depends on the ability of the school's graduates to obtain the target job and upon the quality and adequacy of the course. When the graduates are not able to get jobs or the course is not adequate, the student has been deceived.

All of the prior discussion deals with certain types of deceptive advertising practices. This list is not meant to be exclusive or exhaustive.

One further type of deceptive advertising practice involves the failure to do something rather than the doing or saying of something. This practice, the failure to make essential disclosures, is equally deceptive and quite injurious to the student. Because of the particular nature of vocational

education and its students, the students tend to look upon school personnel as authority figures who, like the high school guidance counselor, will try to help and protect the student. The student assumes from the offering of the course that taking the course will lead to a job. In fact, this may not be the case. For this reason, it seems particularly important to minimize the gamble which the prospective student takes when deciding on a course or school.

To accomplish this and to prevent implicit deception, it is absolutely necessary to give prospective students all information necessary to choose rationally whether to obtain vocational education or to enroll in a particular course. Under these circumstances, I believe that the failure to disclose all material facts to the prospective student is a deceptive and unfair trade practice. Thus, the commission's Guides for Private Vocational and Home Study Schools[4], in addition to requiring various disclosures about the school and its policies, require the school to disclose in writing to the prospective student, "any other material facts concerning the school and the program of instruction or course which are reasonably likely to affect the decision of the student to enroll therein."

Since students take vocational courses to get jobs, disclosure of all material facts ultimately means disclosure of placement rates. This is especially true when the school represents that there is a strong demand for persons with the skills taught. Any representation by a school of strong industry demand is implicitly a representation of an equally strong demand for the graduates of that particular school, making the need for accurate placement information even more essential. Thus, it is an unfair practice not to disclose to prospective students the likelihood of their

getting a job; and it is also unfair and also possibly deceptive for a school to represent either explicitly or implicitly that the demand for its graduates is great when it does not have the relevant placement information or does not distribute it to prospective students.

It is also unfair and deceptive in my opinion for a school to make any representation or claim in its advertising for which it does not have a reasonable basis. A "reasonable basis" is a basis in fact which is: (1) known before the advertising is promulgated and (2) legally sufficient to support the advertising claim. A good illustration of this concept involves a representation by a school that its students are qualified by reason of their course for a particular type of job. As discussed above, any such representation implies that the school's graduates are able to get the type of job mentioned. It also implies that the school has a reasonable basis for making the representation. It is one thing to say that a person is qualified for employment when independent, predetermined and accepted standards for qualification exist in that field. An example is the examination to become a licensed electrician. If substantially all of a school's students upon graduation are able to meet this independent standard, the school would appear to have a reasonable basis for the claim that the course prepared its students for that particular skill. It is quite another thing to say that a person is qualified for employment when no such independent standards exist. When there are no standards, qualifications exist essentially in the mind of potential employers. In the latter instance, to avoid unfairness or deception it may be necessary for a school to make an effective effort to keep informed about employers' hiring preferences in its area. Certainly a school must make an effective

effort to determine whether substantially all of its graduates achieve employment in the positions for which they were trained or whether their qualifications are considered inadequate. Such efforts will insure that the school has a reasonable basis, at any point in time, for representing that its graduates may be qualified for employment.

In conclusion, the advertising practices of some vocational schools are misleading and unfair. Those schools which mislead their students give a bad name to the entire vocational school industry. No one solution exists to the problems raised by these vocational schools. Cooperation and coordination between the federal and state governments and the other public and private groups involved in vocational education is necessary to minimize the economic, personal and societal harms caused by the deceptive practices of such schools. The Federal Trade Commission believes that passage of the Education Commission of the States' model postsecondary educational authorization act, when combined with comprehensive regulations and an effective state regulatory body, will be a significant step toward the goal of preventing or correcting the abuses which all too frequently have characterized segments of the vocational school industry.

FOOTNOTES

[1]It should be noted that many vocational school courses cost between $2,000 and $3,000.

[2]Quoted in Miller, Jay W., and Hamilton, William J., The Independent Business School in American Education, McGraw-Hill, New York, 1964, p. 51.

[3]Section 5, Federal Trade Commission Act, 15 U.S.C. Sec. 45(a).

[4]Promulgated May 16, 1972.

WHO'S IN THE CENTER OF THE EDUCATIONAL MARKETPLACE?

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I. Introduction

What do Harvard University, Career Academy, Southwestern Indian Polytechnic Institute, UCLA and North American Correspondence School have in common?

These institutions and educational programs provide, or purport to provide, a learning experience for their students. The student generally pays directly or indirectly for this experience. The student generally expects that in return for his financial and time commitments his acquired education will lead somewhere--to a job, to increased skills and new appreciations, to an enriched life. In other words, the student "contracts" with an institution or educational program to purchase educational services that the institution or program has announced or advertised, and which the student expects will benefit him. Under this arrangement, the student is the primary consumer of educational services in the educational marketplace.

For years now, education has been considered "sacred" territory and, therefore, somewhat exempt from the social pressures, consumer investigations and consumer legislation that have improved the marketplace in other sectors of the economy. As a result in part of this special status, the educational sector--knowingly or unknowingly--has allowed or invited many consumer abuses.

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*The views expressed in this paper reflect only the views of a member of the Office of Consumer Affairs. They are not representative of official policy.

This paper identified some of the consumer problems in the educational marketplace, suggests connections between consumer rights and responsibilities and education, recommends a philosophical framework and some first steps to be considered and challenges this first National Conference on Consumer Protection in Education to clarify educational consumer problems and develop solutions.

Very few people before us have seriously considered the student as the consumer of educational services. Even fewer have been concerned about finding solutions to consumer problems in education. At this conference we have the opportunity of creating a greater awareness of these consumer issues and of initiating solutions to many problems of the educational consumer.

II. Issues and Problems

A principal question in the educational marketplace is "who is at the center?"

Not everyone is ready to accept the fact that the student is the consumer of educational services. For example, several federal officials who very recently discussed this issue with me insisted that the educational institutions are the educational consumers and that the institutions are at the center of the educational marketplace. Their rationale was based on their direct relationships with the institutions, administrators and educators, and their indirect relationships to the students. They agreed, nevertheless, that it is the student who purchases educational services and who is the direct beneficiary of education in this country. Obviously the educational marketplace depends on the institutions, administrators, educators, parents and

taxpayers as well as the student. It is a complex mechanism, but one which can be more easily understood by focusing on the student consumer.

When we regard the student as the primary educational consumer and when we also understand the vital roles played by the other participants in the educational marketplace, we can sort out and discard some of the myths and misconceptions that frequently prevent solutions to educational marketplace problems. These myths include: the student represents only a "buck" to the school; the student is incapable of assuming responsibility for the way the school is operated; the school always operates in the best interest of the student; the school should fulfill the student's every need and meet his expectations; and everyone believes education is "good," therefore schools are "good."

Money, as well as myths, create problems in the educational marketplace--the lack of money and the possible misuse of money. Money problems affect all participants in the educational marketplace: the student, the school, the lender, federal agencies and taxpayers.

Since 1862 when the first Morrill Act launched the Land-Grant colleges, Congress has supported the widespread American belief that education should be available for all. By 1862 education was considered not only "good" and "sacred," but also necessary--even the right of all, not just a select few. Following enactment of the first Morrill Act, federal monies to eligible educational institutions, to students and through lending institutions have enabled millions of student consumers to purchase education and training.

More federal dollars available to more consumers to learn from more universities, community and junior colleges, vocational and technical schools, and home study courses have increased significantly the numbers of consumers at the postsecondary level.

The U.S. Office of Education reports that since fiscal year 1966 under the Guaranteed Student Loan Program alone it has provided a total of $6 billion in financial aid to over three million postsecondary students.[1] USOE anticipates that for the 1973-74 academic year, more than 3.3 million students will participate in the five student financial aid programs administered by USOE. And approximately $2.1 billion have been allocated for these consumers to participate in these five USOE-administered programs in 1973-74.[2] A much higher percentage of these funds now support study at vocational, trade and home study schools. Currently, 3,900 of the 8,200 postsecondary schools eligible for USOE's Guaranteed Student Loans are in this growing category.

More federal dollars, more consumers and more schools create more opportunities; they also create more problems in the educational marketplace.

One increasing problem is the default rate on student financial programs backed by the federal government. Estimates from HEW on USOE-administered program defaults will run $100 million for this year. Other HEW estimates indicate one out of every 10 student loans incurs a default. The greatest increase in defaults occurs in the vocational schools categories--as high as 75 per cent in the case of defaults on federally insured loans. In one selected group of independent colleges and schools, $10.6 million default claims were filed through June 30, 1973, out of a total of $175 million loans to this group.[3]

The default problem is currently not limited to the U.S. Office of Education and its consumers. Similar problems exist no doubt within student aid programs supported by the Veterans Administration, Department of Defense and other federal agencies. One of the overall critical issues of the default problem is how and why did consumers commit themselves to a loan in the first place. To resolve the problem the student must be viewed as the consumer, with certain rights and responsibilities.

Other serious problems plague the educational marketplace concerning: solicitation and advertising, admissions, refund policies, course work, job counseling and placement, and a host of management problems including poor teaching and inadequate facilities. Some of these problems are directly linked to the default problem.

Complaints from educational consumers regarding these obvious marketplace problems are on the rise. The Federal Trade Commission reports that although the number of complaints which they receive regarding schools is relatively low compared to complaints received on other matters, complaints concerning the educational marketplace have increased significantly in the last three months. One office in USOE says that its complaint volume has doubled each year for the past three years, and that although three years ago this office reviewed a small number of complaints, it now receives more than its staff can handle.

Some educational marketplace problems are not so obvious or immediate. Student financial problems can lead to a ruined credit rating, bankruptcy and emotional problems. Unemployment after a costly training program can cause despair. Abuse from students, administrators or educators creates distrust and hostility. Unethical treatment by schools can "turn off" consumers forever to the benefits of education.

While the majority of students and schools encounter very few problems in the educational marketplace, those that do encounter problems deserve attention. A small number of irresponsible and angry students or a few unethical schools and home study courses can generate a great deal of harm in the educational marketplace.

III. Recommendations

No one participant in any educational consumer problem can affect solutions singlehandedly. The consumer, school, lender and regulatory and other consumer agencies must work together to identify the problems and find solutions. The reasonable starting point in seeking solutions, as has been suggested, is in the consumer framework.

A. Rights and Responsibilities

We have considered the student to be the consumer of educational services. The student then has rights and responsibilities in the educational marketplace analogous to the rights and responsibilities of the consumer in the traditional marketplace.

This means that the burden of proof should no longer be borne by the student alone. Consumer rights, consumer due process and consumer laws should be brought to bear on the educational marketplace. Participants in that marketplace should respect consumer rights and carry out corresponding responsibilities.

As early as 1962 consumer rights were articulated at the highest levels of government. In the mid-'60s consumer legislation requiring safety measures and disclosure of information backed up these rights. In his 1969 consumer message, President Nixon documented the final acceptance of consumer rights, stating that

the "'Buyer's Bill of Rights' will help provide greater personal freedom for individuals as well as better business for everyone...."

What are the consumer's rights? They are:

---the right to choose products and services,

---the right to accurate information,

---the right to health and safety when participating in the marketplace, and

---the right to be heard and to have his dissatisfaction duly registered.

The application of these rights to the educational marketplace is simple in concept. The student has the right to choose educational services. Of course, major considerations such as geography, grades, etc., will influence the choice. However, assuming he qualifies for admission, the applicant should be allowed to speak up for the educational services that meet his needs, and to have his choice taken seriously.

The right to accurate information is extremely important. In order to choose educational services, the student must have available to him accurate, complete, fully disclosed information on what the school offers and expects of him, e.g., course requirements, costs, refund policies, services provided, ratio of faculty to students, job placement results in the past, measures of student learning achievements, graduation requirements, etc. Likewise, in order to select a financial aid program the student must have clear, simply stated, complete information on the program and his repayment responsibilities.

Acceptable health and safety conditions of the school are also the right of the consumer of education services.

The right to be heard, to register dissatisfaction, to have a complaint taken seriously and to obtain satisfaction whenever possible--respecting this right is basic to educational consumerism.

To make the educational marketplace work well for all participants, these consumer rights must be coupled with consumer responsibilities. Not only are rights and responsibilities a necessary couple; they apply as a pair to all participants--to the school, to the lender and to the prospective employer as well as to the student.

What are the consumer's responsibilities? They are:

---the responsibility of making a choice, of deciding;

---the responsibility of gathering, reading and applying information in the decision-making process;

---the responsibility of respecting health and safety requirements; and

---the responsibility of speaking up, of presenting complaints and problems in a reasonable manner and, where needed, of participating in affecting solutions.

Consumer rights and responsibilities actively exercised in the educational marketplace should balance "caveat emptor" and "caveat venditor."

B. Initiatives

How do we bring about this balance? How do we enact educational consumer rights and responsibilities?

The consumer concerns, investigations, due processes and legislation that are improving the traditional marketplace can legitimately be brought to bear on the educational marketplace.

For example, truth-in-lending is a mandatory system for all lenders in all cases. It requires full disclosure to consumers of all finance and interest charges as well as repayment obligations. Where truth-in-lending is not vigorously enforced in the educational marketplace, it should be. Perhaps the three-day "cooling off" period, endorsed by many states, should be adopted by financial assistance programs, particularly for the vocational and home-study schools.

Likewise, full disclosure of information affecting a student's choice of schools should be rigorously encouraged. Schools suspected of misrepresentation should, in the interest of improving the educational marketplace, be investigated.

Student organizations should publicize problems to their peers, establish their own complaint process and work with their schools and consumer organizations to resolve their problems.

Consumer organizations should assist students and schools in resolving complaints. Each state has appointed an assistant attorney general for consumer protection. County and local offices can also conduct mediations and investigations. Some federal agencies are also empowered to make inquiries, investigate or file suit on behalf of consumers. And there are now several effective private and consumer organizations in each state as well as national agencies that handle

educational consumer complaints. Consumer redress should be activated in the educational marketplace.

Many other problem areas also need attention: accreditation, student organizing, course work changes, noninstitutional services which students require--such as transportation--and others. Consumer processes are not necessarily applicable to every problem. However, consumer approaches do indeed have a legitimate relationship to the major educational consumer problems.

IV. Summary

Consumer rights and responsibilities should become active in the educational marketplace. From the student to the potential employer, from the accrediting agency to the job counselor, from the lender to the collector, from the recruiter to the consumer agency--each participant in an educational consumer problem must become part of the solution.

Launching educational consumerism is the challenge before this first National Conference on Consumer Protection in Education. It is highly appropriate that this effort begin here where every part of the educational marketplace is represented, and where we are able to focus on the student as the educational consumer.

FOOTNOTES

[1]"American Education," U.S. Dept. of Health, Education and Welfare, U.S. Office of Education, Vol. 9, No. 8, p. 27.

[2]These five programs are: Basic Educational Opportunity Grants, Supplemental Educational Opportunity Grants, National Direct Student Loans, College Work-Study and Guaranteed Student Loans. "American Education", U.S. Department of Health, Education and Welfare, Office of Education, Vol. 9, No. 7, pp. 4-8.

[3]Sources: Office of Planning and Evaluation, Office of the Secretary, and Reports and Data Analysis Staff, Division of Insured Loans, Office of Education, HEW, November 1973.

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